

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -NOVEMBER 21, 2006- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:38 p.m.

ROLL CALL Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(06-554) Presentation to the Library Building Team recognizing their efforts for the successful completion of the New Main Library.

Mayor Johnson read the names of the Library Building Team members and presented certificates.

Honora Murphy, Library Building Team Member, stated the Library Building Team worked many hours for over four and a half years; thanked the Council for recognizing efforts made.

Karen Butter, Library Board President, stated the Library Building Team is a small representation of individuals who worked for over thirty years to lay the ground work for a new library; thanked the City, citizens, and everyone involved for all the hard work.

Marilyn Ashcraft, Library Building Team Member, stated the City of Oakland lost a Library Bond measure recently; thanked the community for all the help and support.

(06-555) Presentation by the Army Corps of Engineers.

Lieutenant Colonel Craig Kiley, Project Manager Al Paniccia, and District Counsel Merry Goodenough provided a brief presentation.

Mayor Johnson stated waterway residents are concerned about the six-year moratorium; residents are unable to do routine maintenance, repair damage, or maintain seawalls; questioned why the moratorium prevents residents from performing basic, routine maintenance; stated license agreements are an issue; inquired whether the Army Corps of Engineers was responsible for the condemnation proceedings in 1882; to which the District Counsel

responded in the affirmative.

Mayor Johnson stated the Army Corps of Engineers created the Estuary; the train bridge [Fruitvale Avenue Railroad Bridge] was built as an accommodation to Alameda to provide a rail connection; the City needs the transportation connection between Alameda and Oakland; questioned whether the Army Corps of Engineers' mission has changed since 1882; stated transferring the Fruitvale Avenue Railroad Bridge to the County without transferring funding is the same as tearing down the bridge; the City supports the transfer because residents would have control over the property; a previous proposal addressed the possibility of dividing the Estuary in the middle and transferring part to Oakland and part to Alameda; another proposal addressed the Army Corps of Engineers retaining ownership of the Channel's navigational portion and transferring portions to each City; the Channel needs to be maintained because residents have boats; the City does not have the funding for dredging.

The District Counsel stated the Army Corps of Engineers realized that the property is not being managed in a way that the local governments and individual property owners want; illegal encroachments dumped into the canal and there has been unnecessary discharge of pollutants; structures have not been maintained in accordance with the permits; neighbors complained that docks built were too large; the moratorium was an effort to get a handle on said problems; the moratorium does not grant regulatory permits for repair, new construction on existing structures, new construction, or new real estate licenses; individuals are allowed to repair an existing structure in kind upon written request; an Army Corps of Engineers permit is not allowed unless the structure has been kept in a serviceable condition.

Mayor Johnson stated the homeowners are not allowed to do routine maintenance but are required by law to keep docks in good repair; suggested that the City could work with the Army Corps of Engineers to modify the moratorium to allow routine maintenance.

The District Counsel stated the Army Corps of Engineers has considered modifying the moratorium as to real estate licenses and would entertain other ideas for modification; piece meal development and abuses would occur without the moratorium; a proposal is on the table to request the City to apply for a Programmatic General Permit (PGP), which would allow the City to manage the waterfront; the property owners would come to the City for permits; the Army Corps of Engineers would assist the City with enforcement; representatives need to be encouraged to propose legislation to fix the Fruitvale Avenue Railroad Bridge; the Army

Corps of Engineers does not have funds for the repair nor the authority to do seismic retrofitting; 1990 and 1996 legislation changed the Corp's emphasis; along with the last administration; the Army Corps of Engineers is being encouraged to get rid of any property that is not used; stated the scouring occurs naturally; dredging is not necessary because the depth stays the same.

The Project Manager stated that the Army Corps of Engineers still has the responsibility for the Tidal Canal because the Canal is part of the Oakland Harbor project; the Port of Oakland is the sponsor for the Oakland Harbor project and would need to request the Army Corps of Engineer to perform the maintenance.

Councilmember deHaan inquired whether dredging has been done in the last twenty years.

The Project Manager responded that he does not think so; stated spot dredging was performed over twenty years ago.

Councilmember deHaan stated that he recalled some dredging in support of some operations above High Street.

The Housing Authority Executive Director stated a homeowner near the High Street Bridge had some dredging done because of storm water discharge into the Estuary.

Councilmember deHaan inquired who paid for the dredging, to which the Housing Authority Executive Director responded the homeowner.

Councilmember Daysog inquired whether the Army Corps of Engineers experienced a similar situation where a bridge was at risk of being demolished because of lack of legislation; further inquired how long it takes to implement the legislation.

The District Counsel responded the Sacramento District had a big push to transfer a bridge that was connected to West Sacramento; stated special legislation was needed for the non-federal sponsor to take over the bridge; the legislation took over a year; she would ask the Coast Guard if statutory authority was invoked to order bridge owners to remove bridges.

Mayor Johnson inquired whether the Army Corps of Engineers would be responsible for abandoned boats and debris.

The District Counsel responded the Army Corps of Engineers would be responsible if there is an obstruction or potential obstruction to navigation; the Bay Conservation and Development Commission (BCDC) has authority to remove abandoned vessels; the BCDC has less

funding than the federal government.

Mayor Johnson inquired whether the Army Corps of Engineers would still have the responsibility [for abandoned boats and debris] if the conveyance occurred, to which the District Counsel responded in the affirmative.

Mayor Johnson called the public speakers.

Seth Hamalian, Waterfront Homeowners Association, stated a parallel track is needed for the land transfer and a shoreline management plan described by the Army Corps of Engineers; he does not understand how a moratorium meshes with the Army Corps of Engineers' missions; inquired why the moratorium is being selectively enforced.

Richard Pipkin, Alameda, stated an Officer in Charge stated the Army Corps of Engineers is a poor landlord at a meeting six months ago; the Army Corps of Engineers usually have a lot of deferred maintenance; poor landlords cause property values to decrease; dredging is necessary in the Estuary; questioned where the landlord has been; stated that he has not heard about concerns for families who have invested in the property; a sign of good faith should be given if the Army Corps of Engineers wants to negotiate.

Council deHaan inquired how other Estuary projects differ.

The District Counsel responded the Army Corps of Engineers had a program under the Economy Act for private dredging near the High Street Bridge through a governmental agency; stated a governmental body requested work be done; the Army Corps of Engineers can offer technical knowledge; the Army Corps of Engineers does not have authority to dredge unless there is a federal interest and cost benefit, unless directed by Congressional legislation in the Water Resources Development Act (WRDA).

Councilmember deHaan inquired whether the dredging was done at the homeowner's expense but was performed by the Army Corps of Engineers; stated the Army Corps of Engineers performed the dredging at the gravel area just before High Street; dredging would need to be done eventually.

The Project Manager stated the Port of Oakland would need to request the Army Corps of Engineers to dredge the project portion; a positive cost ratio would be required to justify spending federal dollars and would need to be related to commercial navigation.

Councilmember Matarrese stated a moratorium has been in place for

six years restricting homeowners on the Alameda side of the Estuary from making any improvements; three signature property improvements went very quickly along the Channel; the number one concern is for property owners on the Alameda side of the Estuary; continued dredging and regulating of the Canal is also a concern; no action was taken for the Canal obstructions along the Dutra property a couple of years ago; three tug boats were sunken and no one wanted to take responsibility; it took three years to get rid of the three tug boats; he has big concerns that reluctant responsibility will be no responsibility; the Fruitvale Avenue Railroad Bridge is needed more than ever because of transportation issues; staff should be directed to be aggressive and talk to the Congressional delegates to change the orders under which the Army Corps of Engineers is operating; consideration should be given to compensating Alameda for the moratorium's affect on deferred maintenance over the years.

Vice Mayor Gilmore stated water reached up to docks at one time; deferred maintenance has resulted in more mud than water; it appears that the Army Corps of Engineers would do the dredging as long as it is commercially navigable; the homeowners would be left high and dry; the Army Corps of Engineers may dredge the Channel years from now; commercial ships would be able to go in and out; the homeowners or the City would be stuck dredging the portion of the land to allow homeowners' boats to get out; questioned why the City would want to take the land.

The District Counsel stated the Army Corps of Engineer's authority to dredge is under the WRDA; Congress has set a standard where the cost benefit ratio has to be greater than one in order to spend federal dollars; the land transfer is a different real estate issue than dredging.

Vice Mayor Gilmore inquired whether the City would be responsible for the dredging if the City takes the land; stated residents would be looking to the City so that docks could be used; questioned why the City would want to take on the responsibility for dredging; stated the Army Corps of Engineers would be responsible for dredging even if funds are not available.

The District Counsel stated that no legal mechanism is available for the property owners to force the City to dredge private docks.

Mayor Johnson inquired how the cost benefit analysis could be brought to Level One in order to have the Army Corps of Engineers dredge.

The District Counsel responded staff would be provided with

legislation addressing how a cost benefit analysis is done.

Mayor Johnson stated the City needs special legislation; inquired whether the Army Corps of Engineers would support the City's request for special legislation.

The District Counsel responded the Army Corps of Engineers is prohibited from promoting legislation which would pour money into the Army Corps of Engineers' coffers; stated technical assistance is available if representatives make a request to the Army Corps of Engineers.

Councilmember Daysog stated the Army Corps of Engineer's report mentioned an October 2007 date to have everything in place; inquired whether it would be possible to iron out issues and strike compromises within the timeline.

The District Counsel responded negotiating a moratorium would take far less time than getting Congressional representatives to pass legislation; the Army Corps of Engineers is willing to entertain moratorium modifications; negotiations could start as soon as a written proposal is received outlining what the City would want to change; the Army Corps of Engineers wants to ensure that the waterfront is developed in an environmentally and economically sound manner.

Councilmember Daysog stated the City needs the Corps to provide the City with possible actions by February.

The Project Manager stated the October 2007 date applies to the Fruitvale Avenue Railroad Bridge and is flexible.

Councilmember Matarrese requested that a message be sent up the chain of command regarding the City's issues with the imposed deadline; time is needed for City staff to prepare some type of Council action; the public needs an additional chance to comment; requested that the Army Corps of Engineers advise the chain of command that the deadline is not realistic.

Vice Mayor Gilmore inquired whether the authority to transfer the property to the City supercedes the authority to transfer the property to the individual homeowners; stated that she understood the Army Corps of Engineers' preference was to transfer the property to the City.

The Project Manager responded there are two separate authorizing pieces of legislation; stated the first legislation addresses a specific transfer to the City; the subsequent legislation includes

transfer to individual, adjacent property owners; the Army Corps of Engineers is concerned that individual transactions would result in a checker board.

Vice Mayor Gilmore inquired whether the Army Corps of Engineers would need to negotiate with individual property owners if the City does not want to accept the property, to which the project Manager responded in the affirmative.

Vice Mayor Gilmore requested an explanation of the PGP; inquired whether the City would become permit central for the Army Corps of Engineers.

The District Counsel responded the land transfer is not connected to PGP necessarily; stated a PGP is issued by the Army Corps of Engineers under the Clean Water Act; Water Boards, localities, cities, and counties often want control over regulatory activities; the City would need to get some type of real estate interest, such as an easement, lease, or license which would expire after a certain period of time; the permit could be extended for five years; the Public Works Department would be permit central for docks and other structures along the waterfront; the Army Corps of Engineers would work with the City to help structure the PGP; only certain activities fit within the PGP; the Army Corps of Engineers would help the City define what would be allowed and ensure activities are not environmentally damaging; the statute states that the Army Corps of Engineers has enforcement authority when things are not going well.

Vice Mayor Gilmore inquired whether the moratorium goes away with the PGP, to which the District Counsel responded in the affirmative.

Mayor Johnson thanked the Army Corps of Engineers for the information presented; stated residents have a high level of interest in the issue; the main issue is the ability to perform on-going maintenance and repair.

Councilmember Matarrese stated it is important to have a strategy for the Congressional delegation to start working on enabling legislation for the Northern Waterfront redevelopment area, including but not limited to, the Fruitvale Avenue Railroad Bridge; inquired when an analysis would be available outlining different options such as obtaining a strip of land or the whole land, ensuring that the waterway is maintained and dredged, and running the permit process well.

The City Manager stated staff has been working with the homeowners

and Congressional legislation staff.

Councilmember deHaan stated another issue is time extension.

The Housing Authority Executive Director stated staff has been working on a WRDA amendment that includes a no-cost conveyance, studies to review the cost to retrofit the Fruitvale Avenue Railroad Bridge, transferring the property to the City, property owners or an entity created either by the City or the Homeowners Association.

Councilmember Matarrese requested that a summary report be brought back to Council; stated a lot of options have been discussed; he wants to hear what the residents have to say and evaluate the options; the Army Corps of Engineers is responsible for maintaining the waterway and the Fruitvale Avenue Railroad Bridge; the Fruitvale Avenue Railroad Bridge has not been maintained if it is not working; the City needs to be compensated for deferred maintenance; retrofitting costs will be large; said costs should not be born by the City for receiving the transfer and should be put in front of Congressional delegates.

Mayor Johnson stated that she received a list of sunken vessels; requested an update on outstanding obstructions in the Estuary.

Councilmember deHaan requested that the Army Corps of Engineers spell out the width and depth criteria that would be maintained in the Estuary; stated obligations need to be spelled out.

The City Manager stated that all concerns would be addressed.

Councilmember Matarrese inquired when the next briefing would take place, to which the City Manager responded the beginning of the year.

CONSENT CALENDAR

Councilmember Matarrese moved approval of the Consent Calendar.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*06-556) Minutes of the Adjourned Regular City Council Meeting held on November 14, 2006. Approved.

(*06-557) Ratified bills in the amount of \$1,446,282.87.

(*06-558) Recommendation to accept the Quarterly Sales Tax Report for the period ending June 30, 2006. Accepted.

(*06-559) Recommendation to accept the Quarterly Investment Report for the period ending September 30, 2006. Accepted.

(*06-560) Recommendation to execute a Five Year Contract in the amount of \$200,609.04 to John Deere, Inc. for the lease of two greens mowers, two reel mowers, one tractor and five electric utility vehicles. Accepted.

(*06-561) Recommendation to adopt Plans and Specifications and authorize Call for Bids for Citywide Sewer Mains and Laterals Video Inspection, No. P.W. 10-06-21. Accepted.

(*06-562) Resolution No. 14036, "Approving Parcel Map No. 8891 (2201 Harbor Bay Parkway)." Adopted.

REGULAR AGENDA ITEMS

(06-563) Resolution No. 14037, "Appointing Margaret A. Hakanson as a Member of the Commission on Disability Issues." Adopted;

(06-563A) Resolution No. 14038, "Appointing Joy Pratt as a Member of the Housing Commission." Adopted;

(06-563B) Resolution No. 14039, "Appointing Joseph S. Restagno as a Member of the Recreation and Park Commission." Adopted;

(06-563C) Resolution No. 14040, "Appointing Jonathan D. Soglin as a Member of the Social Service Human Relations Board." Adopted;

(06-563D) Resolution No. 14041, "Appointing Srikanth Subramaniam as a Member of the Transportation Commission." Adopted.

Councilmember Matarrese moved adoption of the resolutions.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

The City Clerk administered the Oath to Markaret A. Hakanson, Joy Pratt, Jonathan D. Soglin and Arikant Subramaniam and presented certificates of appointment.

(06-564) Recommendation to appropriate \$107,200 in Measure B Paratransit Funds to renew the Holiday Shuttle and purchase

additional East Bay Paratransit and Friendly Taxi Service coupons.
Approved.

The Public Works Director provided a brief presentation.

Councilmember Matarrese inquired whether a performance metric was being maintained in order to compare the number of riders per year, to which the Public Works Director responded that he would check.

Councilmember Matarrese requested an updated performance comparison for the duration of the service.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(06-565) Resolution No. 14042, "Authorizing Applications for the Measure B Bicycle/Pedestrian Countywide Discretionary Funds and the Bicycle Transportation Account to Conduct an Estuary Crossing Feasibility Study, Appropriate Measure B Funds as Local Match, and Authorize the Public Works Director to Execute All Necessary Grant Documents." Adopted.

The Public Works Director provided a brief presentation.

Vice Mayor Gilmore inquired what type of modifications could be made to the Posey Tube.

The Public Works Director responded changing the railing and doing some cantilevering of the bike path; stated an opportunity may exist with a third ventilation tube that runs through the center of the two existing vehicular tubes.

Councilmember Matarrese stated periodically he rides his bike through the Posey Tube to commute to Berkeley; the Posey Tube is the preferred crossing because there is no wait for a bus; the walkways should be reviewed; he is willing to consider all three options.

Councilmember Daysog suggested performing an analysis on a plan to clean and maintain the Tube's walls.

Mayor Johnson opened the public portion of the hearing.

Lucy Gigli, Bike Alameda, (submitted handout) thanked the Public Works Department for pursuing the feasibility study; stated many options are available; ninety-five bicyclists and pedestrians rode

across the Tube on a Tuesday from 6:00 a.m to 7:00 p.m; five times as many bicyclists and pedestrians rode across the Park Street Bridge.

Councilmember deHaan moved adoption of the resolution.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

ORAL COMMUNICATIONS, NON-AGENDA

(06-566) Michael John Torrey, Alameda, wished everyone a happy Thanksgiving.

COUNCIL COMMUNICATIONS

(06-567) Councilmember deHaan requested staff to review the possibility of establishing emails for various Boards and Commissions, especially the Recreation and Park Commission, Economic Development Commission and Planning Board, so that there is a means of communication with the community.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Special Meeting at 9:10 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY (ARRA) MEETING
TUESDAY- -NOVEMBER 21, 2006- -5:30 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 5:52 p.m.

Roll Call - Present: Councilmembers/Authority Members Daysog,
deHaan, Gilmore, Matarrese and
Mayor/Chair Johnson - 5.

Absent: None.

[Note: Councilmember Daysog was absent during the discussion on
Ballena Isle Marina (paragraph no. 06-553).]

The Joint Meeting was adjourned to Closed Session to consider:

(06-552) Conference with Labor Negotiators; Agency negotiators:
Craig Jory and Human Resources Director; Employee organizations:
Alameda City Employees Association (ACEA), Management and
Confidential Employees Association (MCEA), and Police Association
Non-Sworn (PANS)

(06-553) Conference with Property Negotiator; Property: Ballena
Isle Marina; Negotiating parties: City of Alameda and Ballena Isle
Marina LLP Negotiating parties; Under negotiation: Price and terms

(ARRA) Conference with Real Property Negotiator; Property: Alameda
Naval Air Station; Negotiating parties: ARRA and Area 51
Productions; Under negotiation: Price and Terms

Following the Closed Session, the Special Joint Meeting was
reconvened and Mayor/Chair Johnson announced that regarding Labor,
Council received a briefing from the City's Labor Negotiator
regarding negotiations with ACEA, MCEA, and PANS and staff was
given direction; regarding Ballena Isle Marina, Council received a
briefing by the City Property Negotiator and direction was given to
staff; regarding Alameda Naval Air Station, Authority Members gave
direction to staff regarding terms for a new lease.

Adjournment

There being no further business, Mayor/Chair Johnson adjourned the
Special Joint Meeting at 7:03 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

Agenda for meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL
AND COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -NOVEMBER 21, 2006- -7:32 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 9:12 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese and
Mayor/Chair Johnson - 5.

Absent: None.

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Councilmember/Commissioner Daysog left the dais at 9:12 p.m. and returned at 9:15 p.m.

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CONSENT CALENDAR

Councilmember/Commissioner Matarrese moved approval of the Consent Calendar.

Councilmember Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 4. [Absent: Councilmember/Commissioner Daysog - 1.] [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*06-568CC/*06-068CIC) Minutes of the Special Joint City Council and Community Improvement Commission (CIC) Meeting held on October 17, 2006, the Special CIC Meeting held on November 1, 2006, and the Special Joint City Council and CIC Meeting held on November 14, 2006. Approved.

(*06-569CC/*06-069CIC) Recommendation to accept the FY07 First-quarter Financial Report and approve budget adjustments. Accepted.

AGENDA ITEMS

(06-570CC/06-070CIC) Presentation of Concept Plans for Northern Waterfront Development and recommendation to approve an Exclusive Negotiation Agreement with Encinal Real Estate, Inc. for relevant properties within the Northern Waterfront redevelopment area.

The Development Services Director gave a brief presentation.

Ellen Lou and Carrie Byles, Skidmore, Owings and Merrill LLP [Architects], provided a power point presentation.

Vice Mayor/Commissioner Gilmore stated the staff report indicates that the Northern Waterfront Specific Plan (NWSP) would come to the Council/Commission in January; inquired why the Council/Commission is looking at the project now; stated that she was on the NWSP Committee; the School District owns a piece of property on the site; inquired whether a deal has been reached with the School District; stated bringing the project forward without said deal is premature; the applicant has not gone through community workshops to see if the public thinks the project is a good idea; the process seems backwards.

The Development Services Director stated the process is very forward; typically staff time is spent whittling through issues before anything is in any kind of condition to go out to the public because of just the questions asked; the request is before the Council/Commission because staff is going to spend a lot of time on the project; staff wants to set up a cost recovery mechanism upfront because of the size and scale of the project; consultants need to be hired to help staff deal with some of the questions and issues, such as cost and feasibility; a Settlement Agreement with the School District in 2000 gave the District rights to certain properties within the State Tidelands area; the School District's intentions have to be worked out.

Vice Mayor/Commissioner Gilmore inquired whether staff or the developer would work with the School District.

The Development Services Director responded staff would work as a team with the developer; stated the State Tidelands properties are leased to Encinal Real Estate until 2029; however, the City manages the lease; a joint effort has to be made; the City deals with more real estate transactions than the School District and could help set out an outline of what needs to be evaluated and a path of actions which need to be accomplished to bring a decision to completion.

Mayor/Chair Johnson stated the School District was not allowed to go onto the property to complete environmental testing; the School District was considering filing a lawsuit to access the property.

Peter Wang, Encinal Real Estate, Inc., stated the City compensated the School District for loss of the Mastick Senior Center around 2000 by trying to assign the lease to the School District; the State Tidelands Commission turned it down because the Tidelands Trust designates use for maritime and commercial/public; the land cannot be used for a school; the City Manager at the time signed an extension of lease and an estoppel certificate; said documents were e-mailed to the City today.

Mayor/Chair Johnson inquired whether Mr. Wang is indicating that the School District does not have a legitimate right to property within the area.

Mr. Wang responded that he does not know of the school district having a legitimate right; stated the City never officially transferred the leasehold to the School District.

Mayor/Chair Johnson inquired whether the School District agrees with Mr. Wang, to which Mr. Wang responded that he does not know.

Mayor/Chair Johnson stated the issue must be resolved before the Council/Commission considers anything on the property.

Mr. Wang outlined the amount he has spent on studies; urged moving toward a solution.

Mayor/Chair Johnson stated that she concurs with Vice Mayor/Commissioner Gilmore that the matter seems to be coming in the wrong order; the developer is requesting a subsidy; the developer needs to bring forward a project, not a concept, before subsidy is discussed; the Concept Plan does not appear to be compliant with Measure A; she is concerned that the project would have priority over other projects and is not convinced the City should commit to do so; she concurs with Vice Mayor Gilmore questioning why the matter should be addressed prior to completion of the NWSP.

Councilmember/Commissioner Daysog stated a letter from a member of the public raised the concern that there would only be two public hearings on the matter; there needs to be a commitment to more public hearings if the project happens at all; the public should be involved through the Planning Board or a process; City Hall has to be prepared to juggle a lot of balls; the NWSP is coming forward; City staff can deal with the School District issues; everything can happen on parallel tracks; a commitment for greater public involvement is needed; the Concept Plan needs to be flexible; the NWSP might have ideas on the use and access of public space, which might differ from the Concept Plan; the NWSP would take priority over the Concept Plan.

Mr. Wang stated the Concept Plan is based upon the NWSP.

Councilmember/Commissioner Daysog stated the NWSP has not been adopted; although the Concept Plan might be consistent with the NWSP now, the NWSP could change when presented in January.

Former Councilmember Barbara Kerr, Northside Association, stated

the concept of Clement Avenue extension has been around for 45 years; Clement Avenue extension was clearly in place when Mr. Wang bought the property; she has had it with the resistance to implement the Clement Avenue extension; the neighborhood and future West End project need the Clement Avenue extension in order to get traffic to the bridges on the East End; the process is backwards; the Planning and Building Department has not reviewed the project, which is the normal process; the project should be under the Planning and Building Department, not Development Services; the City can ask developers for concessions; the NWSP is not approved yet.

Jean Sweeney, NWSP Committee Member, outlined the history of street closures for Alaska Packers; stated history should not be repeated; a road needs to be in place before the development is considered; traffic would be generated and Buena Vista residents would come forward if the road is not in place.

Jay Ingram, Alameda, submitted a letter from Rosemary McNally and a copy of his comments; stated the process is backwards; urged the Council/Commission not to approve the ENA and to slow down and get the community involved with plans viewed by the Planning and Building Department, Planning Board and other commissions.

Valerie Ruma, Alameda, submitted comments; urged the Council/Commission not to approve the ENA because the Concept Plan should comply with the NWSP, which has not been approved; stated an ENA is a tentative agreement to a certain schedule to proceed; inquired how a schedule could be agreed upon when there is no concrete idea of what is being planned; further stated the Conceptual Plan is nothing more than a creative meandering; urged keeping the community involved and not approving the ENA; stated the plan should go through the regular process and be submitted to the Planning and Building Department.

David Kirwin, Alameda, submitted comments; stated rolling into an ENA without public and community involvement is of concern; that he does not understand the necessity of an ENA; questioned who else the City could negotiate with other than the applicant; stated requests for public concessions and money are concerning; AUSD has a right to some property; the application to the State Lands Commission for the [property] swap could proceed without an ENA; negotiations could go forward; a formal agreement is not needed to allow communication to continue.

Councilmember/Commissioner Daysog stated there might appear to be two approaches: 1) going step-by-step ironing out inconsistencies with the NWSP, school land issues, and dealing with Clement Avenue

extension issues, or 2) work on parallel tracks; however, there are not two approaches; the NWSP is to come before the Council in January; there is not a rush to do the ENA; the ENA could come back in January; there is a case for working rapidly on parallel tracks; the City has done so successfully in the past with the Catellus project; that he would encourage a commitment to more public input; although an ENA might not be approved tonight, it is not the end; the NWSP will be presented and the Concept Plan can be compared very soon.

Mayor/Chair Johnson stated that she understands why staff is proposing the ENA, but approving the ENA now would be the wrong order; noted ENAs have been used in the past when someone does not own the property.

The Development Services Director stated 6.78 acres are Tidelands property controlled by a City lease and not owned by Mr. Wang.

Mayor/Chair Johnson stated a project application should be submitted before considering a subsidy; the City should not commit to prioritizing staff time to a project in the concept stage.

Councilmember/Commissioner Matarrese concurred with Councilmember/Commissioner Daysog about moving a number of northern waterfront elements along together; however, the Economic Development Commission (EDC) and Planning Board have brought creative concepts to reality in the past, which allows many opportunities for public comment; the NWSP should be in place before the boards consider the matter; an ENA is premature until the concept goes through the process and there is a project; an appropriate project could be brought to the CIC after being sifted and vetted; the community would have an additional opportunity to comment when the matter is brought back to the CIC to determine if the project is worth the benefit.

Councilmember/Commissioner deHaan stated that he does not want to discourage Mr. Wang from going forward with the creative project; the concept has not been flushed out in its entirety; his concern is the departure from the past practice; the sequencing is different; the procedure needs to be approved if it is the mode in which developments are going to be done; the current procedures in place should be followed; there should be an in-depth discussion, if the development mechanism is changing; the existing process works or should be addressed as an agenda item if it does not work; an ENA is not appropriate; urged Mr. Wang to go forward; stated the Planning and Building Department needs to work with Mr. Wang to make it happen, flush out options and give the community an opportunity for involvement moving forward.

Mr. Wang noted that the plan presented meets Measure A requirements; stated every lot is a minimum of 2000 square feet.

In response to Mayor Johnson's inquiry regarding high-rise housing, Mr. Wang stated the high-rise is for senior citizen assisted living.

Mr. Wang further stated an ENA is needed because the project is very complicated.

Mayor/Chair Johnson encouraged Mr. Wang to ensure whatever plan he brings forward is Measure A compliant.

Councilmember/Commissioner Daysog stated that he recognizes the need for an ENA; developers need a degree of certainty about the developer's and City's responsibilities before moving forward with the preliminary parts of a project; the ENA process would flush out the details about what is wanted for the northern waterfront; the ENA process would determine whether public financing should be tax increment financing or mello roos; the process flushes out the land use design details, financials and other issues, such as Measure A compliance and Clement Avenue extension; he is confident issues can be dealt with; however, there has to be a lot more public input and an understanding that the plan might change through the ENA process as the NWSP comes forward; the Concept Plan cannot trump the NWSP; urged Mr. Wang to keep his team together and bring the matter back rapidly if the ENA is not approved tonight.

Mr. Wang stated that he is not asking the City to issue any bond, tax increment or mello roos financing; however, he cannot get private financing without the ENA and DDA; he can afford seed financing for study, but needs bank support for the development.

Councilmember/Commissioner deHaan stated waiting for the NWSP to come forward should not stop Mr. Wang from working with the Planning and Building Department and Development Services; noted most developers would not take on lagoons; encouraged Mr. Wang to continue and directed staff to work with Mr. Wang.

Mayor/Chair Johnson stated direction needs to be included in a motion; stated there is very little information on the project, such as the number of residential units and building height; too much is being requested based on a concept; staff time should not be directed until an application is put forward.

Mr. Wang noted the land exchange might take three to four years.

Mayor Johnson stated a project application is needed before prioritizing staff time on the project.

Mr. Wang stated that he cannot submit a project application until he knows what the project should be; said work requires staff time; otherwise years continue to go by without anything being completed; encouraged the Council/Commission to direct staff to work with him; stated that he could provide the City with tentative maps applications.

Mayor/Chair Johnson stated that the Council/Commission does not know how many units are being proposed.

Mr. Wang stated approximately 200 housing units are proposed.

Mayor/Chair Johnson inquired how many square feet of commercial and retail space are proposed, to which Mr. Wang responded 200,000 square feet.

Mayor/Chair Johnson stated another way to work out cost recovery needs to be figured out if staff believes it is appropriate to dedicate a lot of staff time to the project; cautioned against prioritizing staff time at the expense of other projects that have been waiting to move forward, including individual homeowner projects.

Mr. Wang stated privately funded projects can move forward much faster than the Naval Air Station project; perhaps tax increment could be used for the City's next project.

Councilmember/Commissioner Matarrese moved approval of postponing an ENA until the following occur: 1) that there is an approved NWSP; 2) there is an application or staff can move forward on the project as a project, not a concept, concurrent with public hearings at the EDC because tax increment money was mentioned, and at the Planning Board because projects at said stage rightfully go through the Planning Board for screening before returning to the CIC.

Mayor/Chair Johnson inquired whether Councilmember/Commissioner Matarrese's motion refers to the ENA returning to the CIC for consideration, to which Councilmember/Commissioner Matarrese responded in the affirmative.

Councilmember/Commissioner deHaan requested Councilmember/Commissioner Matarrese to clarify whether the Planning Board and EDC addressing the issue would be the opportunity for the community input and outreach that would occur; stated how the community would

be engaged is a concerning factor; inquired whether the Planning Board and EDC would be the appropriate forum.

Mayor/Chair Johnson stated there is a City process for engaging the community; the project proposer has their own outreach responsibility.

Councilmember/Commissioner Matarrese amended the motion to include direction to have the developer work with the public within the process prior to bringing back an ENA.

Councilmember/Commissioner Daysog stated the public process outlined is very preliminary because the ideas presented are conceptual; that he likes the idea of having public input on the preliminary aspect; encouraged work be done within a quick timeframe following NWSP adoption; encouraged additional public meetings also be held after the public input which would occur prior to the ENA.

Councilmember/Commissioner Matarrese stated after the NWSP is approved there would be a measuring device that could be used and would help the applicant fine-tune his concept; the EDC should probably be the first stop because the EDC deals in concepts; the Planning Board would be subsequent; there would be a chance for the public to visualize from concept to economics to hard planning issues and comment at least three to four times prior to the EBA coming back.

Vice Mayor/Commissioner Gilmore stated that she would add encouraging the applicant to set up a meeting with the neighbors and neighborhood association regardless of the City's public process; sometimes neighbors cannot attend public meetings and the applicant could set up the most convenient time for the neighbors who would be the most directly affected by the development and the most well versed in the history of the site.

Mayor/Chair Johnson stated the motion should set forth minimum requirements, not maximum requirements because there might be some steps not being raised tonight; the Council/Commission should not necessarily set a timeframe because pushing the project through is not the City's job.

Councilmember/Commissioner deHaan stated the motion should address concerns about Clement Avenue extension and its impacts, which hopefully are addressed in the NWSP.

Mayor/Chair Johnson stated the matter might need to go to the Transportation Commission.

Councilmember/Commissioner Daysog stated there ought to be a goal or timeline for the initial EDC and Planning Board public meetings; the meetings should happen soon after the NWSP is adopted in January or February.

Mayor/Chair Johnson stated the timing depends upon when further information is developed and there is a more specific plan; how much time it will take is not known; it is too early to start setting timeframes.

Councilmember/Commissioner Matarrese stated it is important to have the Transportation Commission review prior to the ENA returning for a vote as well as adding in a minimum expectation that the applicant makes direct contact with the neighborhood association and neighbors of the site; said additions [to the motion] are good; Councilmember/Commissioner Daysog's point is that the issue should be revisited to determine the timing once the NWSP is approved; timing might not be known; the Council/Commission should receive a report indicating the applicant's status and the potential for meeting with the EDC and Planning Board within a month of the NWSP being approved; the Council/Commission can decide what direction to take at said point and the update would afford another opportunity for public input.

Councilmember/Commissioner Daysog stated Councilmember/Commissioner Matarrese's recommendation is reasonable.

Councilmember/Commissioner Matarrese stated an update on the status would return to the Council/Commission.

Councilmember/Commissioner Daysog stated the developer or someone else would have to make the case to bring the matter back sooner rather than later.

Councilmember/Commissioner deHaan suggested the Recreation and Parks Commission address the issue.

Mayor/Chair Johnson stated the action would set the minimum; there could be other commissions.

Councilmember/Commissioner Matarrese stated said matter should be discussed at the meeting addressing the status because then the plan may start talking about a public park in more real terms; the developer is doing a lot of work that may be moving the project along quite fast and items might become a project sooner than anticipated; said information would not be known until the NWSP is passed.

Councilmember/Commissioner Daysog stated the outline of the public input process would return following the NWSP adoption; there should be a commitment to enter into an ENA if the developer satisfies the public input meetings.

Mayor/Chair Johnson stated said commitment cannot be made now; the ENA would come back for consideration; the Council/Commission should not commit to entering into an agreement if the developer completes various steps; the Council/Commission might decide an ENA is not appropriate when the matter returns; it is not the appropriate time to consider the ENA; after the proposed meetings is the correct time to consider an ENA, but the Council/Commission is not committing to approval.

Councilmember/Commissioner Matarrese stated the process allows for reaching the correct point to consider an ENA.

Councilmember/Commissioner deHaan stated the process allows consideration [of an ENA]; however, he is not sure an ENA is necessary; he does not know whether the 6.7 acres [of Tidelands property] kicks in the need for an ENA.

Councilmember/Commissioner Matarrese stated said discussion would occur when the ENA returns; the City would have the benefit of the NWSP, additional public input and board/commission deliberation at said time.

Councilmember/Commissioner deHaan seconded the motion with the modifications.

Councilmember/Commissioner Daysog stated although he would like an understanding that the City would enter into an ENA, he is satisfied that there is a process in place once the NWSP is adopted.

Mayor/Chair Johnson stated the steps that the City expects the applicant to complete would lead to consideration of an ENA; however, the City is not committing to enter into an ENA upon completion of said steps; the process is normal; the City does not commit to an agreement with a developer when all the City has is a concept.

Councilmember/Commissioner Daysog stated the normal process is the developer comes forward with a concept, which is reviewed for consistencies with applicable plans; the plan is presented to the public, which involves being flexible; entering into an ENA is reasonable once said processes are completed.

Mayor/Chair Johnson stated there might be an ENA or some other agreement or no agreement at all.

On the call for the question, the motion carried by unanimous voice vote - 5.

(06-571CC/06-071CIC) Joint Public Hearing to consider the Proposed Sixth Amendment to the Community Improvement Plan for the Business and Waterfront Improvement Project.

Mayor Johnson opened the public portion of the hearing.

Proponents: None.

Opponents: None.

Neutral: Former Councilmember Barbara Kerr, Alameda; and Bill Smith, Alameda.

Councilmember/Commissioner Matarrese requested staff to respond to Ms. Kerr's comments regarding the use designations.

The Development Services Director stated land use changes in the current redevelopment plan would make it consistent with the General Plan; the modifications to the CIC's land use map are being made in order to have it conform with the City's General Plan.

Councilmember/Commissioner Matarrese inquired whether the General Plan has the designation of Community-Commercial (C-C), which is the designation he is familiar with for all of the stations; inquired whether there is an error and requested someone to check.

The Development Services Director responded that she does not have a way to check tonight; the documents were reviewed by the Planning and Building Department staff because the General Plan needed to be overlaid onto the land use map; the language in the plan amendment being considered would make the General Plan the dominant land use document; the General Plan, as amended from time to time, would be the guiding land use plan.

Councilmember/Commissioner Matarrese requested the land use map be modified to match the General Plan if the General Plan has the C-C designation; stated the City needs to get on a path to amend the General Plan if C-C is not the General Plan designation; the stations have always been referred to as C-C; said change would be an administrative change; the General Plan needs to change if it has the medium density residential designation.

The City Manager stated staff would check for consistency with the General Plan; the matter would be addressed if the General Plan does not reflect C-C.

The Development Services Director stated separate land use maps for the CIC improvement areas would be done away with and default to the City's General Plan; the General Plan would become the dominant, guiding principle behind all land use evaluations for the CIC.

In response to Mayor/Chair Johnson's inquiry regarding when said change would take place, the Development Services Director stated the amendment is being considered tonight.

Mayo/Chair Johnson inquired whether the action tonight is the last step, to which the Development Services Director responded in the affirmative.

There being no further speakers, Councilmember/Commissioner Matarrese moved approval of closing the Public Hearing.

Vice Mayor/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(06-572CC/06-072CIC) Joint Public Hearing to consider certification of a supplemental Environmental Impact Report (EIR), approval of a General Plan Amendment, Master Plan Amendment, a Development Agreement Amendment, two new Development Agreements, a Disposition and Development Agreement Amendment and a new Disposition and Development Agreement to replace 1,300,000 square feet of approved, but not yet constructed, office and research and development uses with 400,000 square feet of a Health Club and up to 300 residential units in the Catellus Mixed Use Development.
Continued to December 5, 2006.

Mayor/Chair Johnson announced that the Hearing was continued to December 5, 2006.

David Kirwin, Alameda, stated there are six different topics; noted that he would not have the ability to vote on one item with six different topics; stated the City should report out on closed session discussions on the matter.

Mayor/Chair Johnson requested staff to describe the process; noted the agreement would be available to the public a certain number of days prior to the hearing.

The Assistant City Manager stated State law requires that the DDA be published fourteen days prior to being considered for adoption.

Mayor/Chair Johnson inquired whether the document has been made public, to which the Assistant City Manager responded in the affirmative.

The Assistant City Manager noted that there would be one agenda item with eight actions.

Vice Mayor/Commissioner Gilmore inquired whether the existing agreement with Catellus is also available, to which the Assistant City Manager responded the document would be made available.

Councilmember/Commissioner Daysog noted that the meeting to adopt the Catellus DDA was held in the Elks Lodge.

Councilmember/Commissioner Matarrese noted there is a nice overflow room at the library.

Mayor/Chair Johnson stated the public needs to know the proposed agreement has not been approved by the CIC; the draft is coming to the CIC at a public hearing.

Councilmember/Commissioner Matarrese stated the speaker's request for an outline of the closed sessions seems appropriate.

Mayor/Chair Johnson inquired whether the documents could be posted online, to which the Assistant City Manager responded in the affirmative.

Bill Smith, Alameda, commented on meetings.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 11:04 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.